

REMARKS

Applicant takes strong exception to certain of the Office's statements of reasons for allowance. The Office is reminded that the patent statutes require claims to be presented and interpreted in accordance with what the Applicant regards as its invention, not as to what the Office regards as the invention. Accordingly, the Office must read the claims as Applicant regards them (as they are worded), not as the Office might regard them.

Certain of the Office's statements refer to language that is not in all of the claims and, accordingly, does not follow from allowability of claims that do not literally include such language. Certain of the Office's statements of reasons for allowance might be interpreted later as reading limitations into Applicant's claims which simply are not there, or otherwise indicate that Applicant must regard its invention as that to which the Office has interpreted outside the literal claim language.

For example, page 2 of the Notice of Allowability states that claims 1, 2, and 6-19 are objected to but would be allowable if rewritten in independent form. This appears to be typographical error incorporating standard language into the Notice of Allowability that was not intended. However, Applicant requests correction in the next Office Action verifying that claims 1, 2, and 6-19 are allowed.

In addition, page 2 of the Notice of Allowability states, with regard to claims 1, 2, and 6-19, that the prior art of record neither anticipated nor rendered obvious a particular limitation. However, the limitation recited comes from claim 8. Claims 1, 2, 6, 7, and 16-19 do not contain a limitation.

setting forth both a hafnium-containing layer and a lanthanum-containing layer. Only claims 8-15 of the referenced claims includes such a limitation. This might be interpreted to conclude that the Office reads Applicant's claims to include this limitation and that therefore all of the claims are so limited. Yet, Applicant did not include such limitation in all of its claims and had no intention that claims 1, 2, 6, 7, and 16-19 would be so limited.

The Office must interpret the claims in accordance with their literal wording and, to the extent that the Office has not already done so, such is mandated now. If the Office bases allowance upon language not appearing in the claims, then the Office must reject the claims and suggest insertion of such language. Then, Applicant can respond as it deems appropriate.

Allowance of the claim as literally worded is urged. The presence in claim 8 of a limitation to both a hafnium-containing layer and a lanthanum-containing layer essentially precludes independent claim 1, from which claim 8 depends, in any way being interpreted as including such a limitation. Applicant respectfully requests withdrawal of the present statement on reasons for allowance with regard to claims 1, 2, and 6-19 and replacement with a new, proper statement on reasons for allowance.

Respectfully submitted,

Dated: 31 Aug 2005 By: James E. Lake
James E. Lake
Reg. No. 44,854